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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,365	07/07/2003	Christopher J. M. Meade	1/1364	7867
<div>28519 7590 04/03/2007</div> <div>MICHAEL P. MORRIS</div> <div>BOEHRINGER INGELHEIM CORPORATION</div> <div>900 RIDGEBURY RD</div> <div>P O BOX 368</div> <div>RIDGEFIELD, CT 06877-0368</div>				
			<div>EXAMINER</div> <div>OLSON, ERIC</div>	
			<div>ART UNIT</div> <div>1623</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE</div> <div>04/03/2007</div>	<div>DELIVERY MODE</div> <div>PAPER</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/614,365

Applicant(s)

MEADE ET AL.

Examiner

Eric S. Olson

Art Unit

1623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1,2,4,5,7-11,13,19-38,43 and 44.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☒ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


SHAQJIA A. JIANG, PH.D.
PRIMARY EXAMINER

Advisory Action

This office action is a response to Applicant's proposed amendment and response after FINAL filed March 22, 2007.

3. Applicant's proposed amendment in which claims 1 and 7 are amended, changing the limitations and scope of the claims by reciting various new chemical structures, presents a new issue for search and consideration by the Examiner. Although Applicant has provided references indicating that several of these species are in fact the proper chemical names of BAY-198004, BY343, D-4396, V-11294A, and AWD-12281, neither the cited references nor the specification as originally filed identify tofimilast as any of the cancelled compounds. Therefore the inclusion of tofimilast in the claimed invention raises new issues for search and introduces **new matter** into the claims.

Therefore the proposed amendment after final will not be entered.

10. Applicant's evidence documents, filed March 22, 2007, have been fully considered and entered into the record. These documents disclose the proper structural formulae of the claimed species BAY-198004, BY343, D-4396, V-11294A, and AWD-12281, but fail to identify the compounds CP-325 and CP-366 or to indicate whether either of these compounds are in fact tofimilast.

Art Unit: 1623

11. Thus, all rejections of record stated in the Final office action dated May 25, 2006 are maintained in view of the non-entry of the proposed amendment. Applicant's remarks filed on March 22, 2006 after FINAL with respect to the rejections of record in the previous office action have been fully considered but are unpersuasive as discussed in the Final rejection and in view of the non-entry of the proposed amendment.

No claims are allowed in this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric S. Olson whose telephone number is 571-272-9051. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia Anna Jiang can be reached on (571)272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric Olson

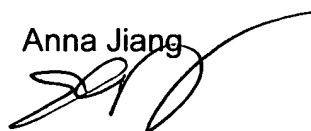
Handwritten signature of Eric Olson in black ink.

Patent Examiner

AU 1623

3/30/07

Anna Jiang

Handwritten signature of Anna Jiang in black ink.

Supervisory Patent Examiner

AU 1623